

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:)	
)	
John G. McBride)	Group Art Unit: 2123
)	
Serial No.: 09/273,784)	Examiner: Phan, T.
)	
Filed: March 22, 1999)	HP Docket No. 10971308-1
)	TKHR Dkt. No. 50814-1470
)	
For: METHOD AND APPARATUS FOR)	
EVALUATING THE QUALITY)	
OF NETWORK NODES)	

**DECLARATION OF JOHN G. McBRIDE
PURSUANT TO 37 C.F.R. 1.131**

I, **John G. McBride** hereby declare that:

- 1) I am an engineers working for Hewlett-Packard Company, which is the owner of all rights, title, and interest in the above-referenced patent application.
- 2) I conceived the invention embodied in the above-identified patent application.
- 3) The invention embodied in the patent application is directed to a system and method for evaluating the design quality of network nodes.

THOMAS, KAYDEN
HORSTEMEYER & RISLEY, L.L.P.

SEP 21 2001

4) I am advised that the U.S. Patent Office has rejected certain claims presently pending in the above-identified patent application based upon the teachings (either in whole, or in part) of U.S. Patent 6,055,366 to Lee et al. I am further advised that the filing date of the Lee patent is February 23, 1998.

5) I am further advised that if I reduced my invention to practice before the February 23, 1998, filing date of the Lee patent, then the Lee patent cannot be used to reject the claims of the above-referenced patent application. In this regard, I understand that an invention is "reduced to practice" if a working model has been created. I am also advised that reduction to practice can be satisfied if a reasonable computer simulation has been performed. I am further advised that my invention was "reduced to practice" if a working model/prototype was constructed that embodied the principal features of the invention (as defined by the claims of the patent application), even though all "bugs" were not work out, or non-claimed features had been fully perfected.

6) With this understanding, I had reduced my invention, as embodied in the claims of the above-referenced patent application, to practice before February 23, 1998.

7) As evidence that the above-identified invention was so reduced to practice, Tab A is attached hereto.

7) Tab A is the end of the history log for the file "xcap.c". The xcap.c file is the file which contains the code for the invention of the above-reference patent application.

8) Each revision notation of Tab A identifies the time and date that the revision was checked in (I am advised, however, that the dates will be masked from this document before submission to the U.S. Patent & Trademark Office.). Each revision notation also includes a "state," which is an arbitrary tag that indicates the state of the project, and "lines," which indicates lines that were changed by the revision.

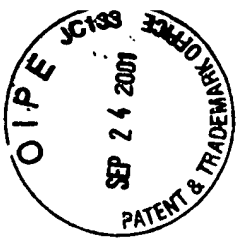
9) Each revision notation also identifies the author who checked in the revision. (Ted Rakel checked in one of the revisions. Ted was responsible for some debugging of this portion of the code, but did not contribute as an inventor to this application). Finally, each revision notation includes a line or two of comments that were provided as the revision was checked in.

9) Based upon the date of the first revision in the revision history of Tab A, I can positively attest to the fact that I had reduced this invention to practice prior to the February 23, 1998, filing date of Lee et al.

I hereby declare that all statements made herein are of our own knowledge are true and that all statements are made on information and belief and are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Sept 18, 2001
Date

John G. McBride
John G. McBride



Revision History Log for File "xcap.c"

revision 1.3

date: --Date REDACTED-- 12:57:38; author: jgm; state: Exp; lines: +1 -1

Author: jgm@hpesjgm (John McBride)

In the routine find_driver_nodes, added the condition to only
add block_input_small to the driver list if it is not already in the list.

revision 1.2

date: --Date REDACTED-- 15:29:20; author: jgm; state: Exp; lines: +54 -50

Author: jgm@hpesjgm (John McBride)

See Version [1.1].

revision 1.1

date: --Date REDACTED-- 09:52:51; author: rakel; state: Exp;

Author: rakel@hpested (Ted Rakel)

Initial revision
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